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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,105	01/14/2000	Thomas J. Perkowski	100-033USA000	7941
7590	08/17/2004		EXAMINER	
Thomas J Perkowski Esq Soundview Plaza 1266 East Main Street Stamford, CT 06902			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/483,105	PERKOWSKI, THOMAS J.	
	Examiner Matthew S Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 39 and 44-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 39 and 44-65 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 January 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

Claims 5-12 and 39-43 were canceled via Paper No. 13.

Claims 1-4 and 13-38 were canceled via Paper No. 17.

Claim 39 was reinstated via Paper No. 17.

New claims 44-65 were added via the Applicant's response filed 6/21/2004.

Claims 39 and 44-65 are pending in the instant application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 39 and 44-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell U.S. Patent No. 5,905,248 in view of Schena U.S. Patent No. 6,753,883.**

Referring to claims 39 and 44-53. Russell discloses a retail-based consumer product information search and delivery system installed in a retail store environment and driven by a manufacturer-managed Internet-based consumer product information management and delivery network, said retail-based consumer product information search and delivery system comprising:

- A subsystem of shelves for supporting one or more UPN-labeled consumer products (Russell: Fig. 6); and

Art Unit: 3625

- A plurality of Internet-enabled consumer product kiosks operably connected to the infrastructure of the Internet, and mounted relative to said subsystem of shelves, and configured for reading UPN-encoded symbols on said UPN-labeled consumer products and automatically displaying a plurality of URLs pointing to one or more consumer product information resources on the Internet that have been linked to the read UPN, by the manufacturer of the consumer product and/or an agent thereof (Russell: column 19, lines 1-64);

Claim 39 further recites a retail-base consumer product information search and delivery system wherein said manufacturer-managed Internet-base consumer product information management and delivery network enables manufacturers and/or their agents to manage and deliver manufacturer-specified consumer product information resources to consumers having access to any one of said plurality of Internet-enabled consumer product information kiosks installed within said retail store environment.

The Examiner notes, this recitation of the intended use of the claimed invention does not result in a structural difference between the claimed invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Russell is capable of performing the intended use.

Schena discloses a retail-base consumer product information search and delivery system wherein said manufacturer-managed Internet-base consumer product information management and delivery network comprises:

Art Unit: 3625

- A relational database accessible by the manufacturer of a plurality of UPN-labeled consumer products offered for sale within said retail store environment, or by an agent thereof, for storing therein information elements representative of:
  - A plurality of universal product numbers assigned to a plurality of UPN-labeled consumer products manufactured by said manufacturer and registered with said relational database (Schena: column 2, lines 12-28),
  - A trademark symbolically linked to each of said UPN (Schena: column 2, lines 12-28),
  - A product description symbolically linked to each UPN (Schena: column 2, lines 12-28), and
  - One or more uniform resource locators symbolically linked to each said UPN (Schena: column 2, lines 12-28), wherein each URL specifies the location of a consumer product information resource located on the Internet related to one of said plurality of UPN-labeled consumer products registered with said relational database by said manufacturer, and wherein a UPN.TM.PD.URL data link is created and maintained in said relational database by the manufacturer (Schena: column 1, line 64 to column 3, line 24).

Claim 39 further recites a system wherein an Internet information server, operably connected to the infrastructure of the Internet and said relational database server, being capable of servicing a request made by one or said Internet-enabled

Art Unit: 3625

consumer product information kiosks, for information on the Internet about one of said plurality of UPN-labeled consumer products registered with said relational database by said manufacturer.

The Examiner notes, this recitation of the intended use of the claimed invention does not result in a structural difference between the claimed invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Russell in view of Schena is capable of performing the intended use.

Schena further discloses a plurality of Internet enabled product information servers, each operably connected to the infrastructure of Internet and storing consumer product information resources located at one or more of said plurality of URLs stored in said relational database, and being related to one or more of said plurality of UPN-labeled consumer products (Schena: Fig. 1, Fig. 2, and Fig. 3).

Claim 39 further recites a system wherein each said Internet-enabled consumer product information kiosk being capable of automatically transmitting to said Internet information server a request for consumer product information resources on the Internet about a UPN-labeled consumer product registered with said relational database.

The Examiner notes, this recitation of the intended use of the claimed invention does not result in a structural difference between the claimed Invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Russell in view of Schena is capable of performing the intended use.

Schena further discloses a system wherein each said request may include either the UPN, TM and/or PD symbolically linked to the UPN assigned to a registered UPN-labeled consumer product on which consumer product information on the Internet is being sought by a consumer within said retail store environment, whereby each request transmitted by said Internet-enabled consumer product information kiosk is received by said Internet information server, and the UPN, TM and/or PD contained in said request is recovered by said Internet information server and used to access said URLs symbolically linked to the UPN, TM and/or PD stored in said relational database, and said URLs accessed from said relational database are transmitted to said Internet-enabled consumer product information kiosk for display thereon and use by a consumer in accessing consumer product information resources stored in said Internet-enabled product information servers, at said URLs (Schena: Fig. 1, Fig. 2, Fig. 3 and column 1, line 64 to column 3, line 24).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Russell to have included the limitations of Schena as discussed above in order to link all users of printed media to the "virtual world" and that can deliver desired information to the user without regard to the user's technical expertise (Schena: column 1, lines 29-60)

Referring to claims 54-65. Claims 54-65 are rejected under the same rationale as set forth above in claims 39 and 44-53.

***Response to Arguments***

Applicant's argument with respect to claim 39 has been considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone

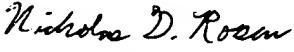
Art Unit: 3625

numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
MSG

August 9, 2004

  
**NICHOLAS D. ROSEN**  
**PRIMARY EXAMINER**